



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 700

IN THE MATTER
OF
THOMAS CHILIK

DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Thomas Chilik pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, § 4(j).

On November 12, 2003, the Commission initiated, pursuant to G.L. c. 268B, § 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Chilik. The Commission has concluded its inquiry and, on February 11, 2004, found reasonable cause to believe that Chilik violated G.L. c. 268A, § 23(b)(3).

The Commission and Chilik now agree to the following findings of fact and conclusions of law:

-Findings of Fact-

The Greenfield Montague Transportation Area ("GMTA") is a state agency providing bus services. Since 1980, Chilik has served as the general manager of the GMTA. As such, he is a state employee as that term is defined in G.L. c. 268A, § 1.

A four-member board of trustees oversees the GMTA. Chilik reports to this board.

Chilik's job responsibilities as general manager include participating in personnel matters affecting subordinate GMTA employees.

Kathleen Williams ("Williams") has been a GMTA employee since 1995. In 1999, Chilik and Williams began dating exclusively. On June 9, 2003, they were married.

During the time they were dating, Chilik participated as general manager in personnel matters affecting Williams including reviewing and approving her pay

increases, authorizing her to attend out-of-state conferences (which he also attended), and promoting her in 1999 from administrative assistant to GMTA office manager. In addition, he was her day-to-day supervisor.

The GMTA trustees were aware of Chilik's participation in personnel matters affecting Williams and deemed such actions appropriate. The GMTA trustees, however, were not aware of Chilik's personal relationship with Williams.

Chilik did not file a written disclosure regarding this personal relationship until late spring/early summer 2003, when Chilik and Williams notified the GMTA trustees of their wedding plans. At that point, the GMTA put appropriate safeguards into place to ensure Chilik's compliance with the conflict of interest law.

-Conclusions of Law-

G.L. c. 268A, § 23(b)(3) prohibits a public employee from, knowingly or with reason to know, acting in a manner that would cause a reasonable person having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy the employee's favor in the performance of the employee's official duties, or that the employee is likely to act or fail to act as the result of kinship, rank, position or undue influence of any party or person. A public employee can avoid a violation of § 23(b)(3) by making an advance written disclosure to his appointing authority of the facts that would lead a reasonable person to conclude that he could be unduly influenced.

By participating as general manager in personnel decisions involving a subordinate he was dating, Chilik acted in a manner that would cause a reasonable person to believe that Williams could unduly enjoy his favor in the performance of his official duties. By so acting, Chilik violated § 23(b)(3).

Before so participating, Chilik should have disclosed in writing to his appointing authority that he was dating Williams. Alternatively, he should have abstained as general manager from participating in any personnel matters involving Williams. Section 23(b)(3)'s requirement of advance written disclosure prior to participation is not a technical requirement. Even where actions regarding personnel matters affecting a subordinate that a supervisor is dating are appropriate, the disclosure lets the appointing authority (and the public) know the relevant facts and provides the appointing authority the opportunity to fully scrutinize the actions knowing all of the relevant circumstances and put into place appropriate safeguards to protect the public interest under the circumstances.

-Resolution-

In view of the foregoing violation of G.L. c. 268A by Chilik, the Commission has determined that the public interest would be served by the disposition of this matter

without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Chilik:

- (1) that Chilik pay to the Commission the sum of \$2,000 as a civil penalty for violating G.L. c. 268A, § 23(b)(3); and
- (2) that he waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: March 4, 2004